

Danny Tarkanian - 6/5/2013
Federal Deposit Insurance Corporation, et al. vs. Danny Tarkanian, et al.

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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

FEDERAL DEPOSIT INSURANCE)	
CORPORATION, as Receiver for LA)	
JOLLA BANK, FSB,)	
)	
Plaintiff,)	Case No.:
)	2:13-cv-00760
vs.)	-GMN-GWF
)	
DANNY TARKANIAN, an individual;)	
AMY M. TARKANIAN, an individual;)	
JERRY TARKANIAN, an individual;)	
LOIS TARKANIAN, an individual;)	
GEORGE TARKANIAN, an individual;)	
ZAFRIR DIAMANT, an individual;)	
DOUGLAS R. JOHNSON, an)	
individual; DEBRA JOHNSON, an)	
individual; and DOES 1 through)	
100, inclusive,)	
)	
Defendants.)	
_____)	

DEPOSITION OF DANNY TARKANIAN

Taken on Wednesday, June 5, 2013

At 8:41 a.m.

At 5275 South Durango Drive

Las Vegas, Nevada

Reported by: Teri R. Ward, CCR NO. 839

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1 LAS VEGAS, NEVADA; WEDNESDAY, JUNE 5, 2013

2 8:41 a.m.

3 -oOo-

4 (Prior to the commencement of the deposition,
5 all of the parties present agreed to waive
6 statements by the court reporter, pursuant to Rule
7 30(b)(4) of NRCP.)

8

9 DANNY TARKANIAN,
10 having been called as a witness and having been
11 first duly sworn, was examined and testified as
12 follows:

13

14 EXAMINATION

15 BY MR. PECK:

16 Q. Good morning, Mr. Tarkanian. Can you
17 state and spell your name for the record, please.

18 A. Danny Tarkanian, D-a-n-n-y,
19 T-a-r-k-a-n-i-a-n.

20 Q. And your full name is Daniel; is that
21 correct?

22 A. My legal name is Daniel. I go by Danny
23 since I was very, very young, and everything I sign
24 is Danny.

25 Q. Okay. I have seen, I think, a trust

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1 your question, I'm sorry. If you can clarify what
2 you mean.

3 BY MR. PECK:

4 Q. Sure. It says -- it identifies you as a
5 family trustee and Charles E. Thompson as the
6 independent trustee. And I just wanted to know what
7 that means. Why there's two or the differences?

8 A. It's easy to answer. I have no idea.
9 Dick Oshins created this. I was young at the time.
10 I didn't understand how it worked. I still don't
11 understand completely how it works. But they
12 created it that way, and there's got to be a purpose
13 for it.

14 Q. Do you know Charles E. Thompson?

15 A. Yes.

16 Q. And how do you know him?

17 A. He was my dad's attorney during that
18 time period.

19 Q. If we look at the Jerry and Lois E.
20 Tarkanian 1992 Irrevocable Trust, and this is the
21 trust that you're referring to as holding the life
22 insurance policies, correct?

23 A. Yes.

24 Q. And it also identifies you as the family
25 trustee and Charles E. Thompson as the independent

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1 trustee. Do you know if that has changed over time?

2 A. I am the family trustee. I believe

3 Kenan Rafteri is the independent trustee now.

4 Q. And I'm assuming you still don't -- I
5 would ask you the same question. Why is there a
6 family trustee and an independent trustee with this
7 trust? Would your answer be different from what you
8 just said regarding the other trust?

9 A. No.

10 Q. I'm sorry, the name of the trustee that
11 you said was Rafteri?

12 A. Same one. Kenan or Joseph. I don't
13 know what he goes by.

14 Q. It says Joseph K. Rafteri. But you call
15 him Kenan?

16 A. Yes.

17 Q. Do you interact with him on -- with this
18 trust as far as making trustee decisions?

19 A. No.

20 Q. Can either of you act independently of
21 each other or how does it work?

22 A. My understanding is as a trustee,
23 whether you want to call me a family trustee or
24 anything, I can make the decisions for that trust
25 based on the best interest of the beneficiaries, and

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1 I have done so. Kenan has had no involvement, that
2 I'm aware of. That I can recall at this time, in
3 any activities with the trust.

4 Q. You had mentioned the Jerry and Lois E.
5 Tarkanian 1992 Irrevocable Trust as having a bank
6 account with Wells Fargo. Do you know how much is
7 in that account now?

8 A. Less than \$200.

9 Q. The life insurance policies, let's talk
10 about those for a second. The Sun Life policy, what
11 type of policy is it? Is it a term life? Is it --
12 you said second-to-die policy, but I don't know if
13 it's a term policy or if there's cash value
14 component to it. Can you tell me about that?

15 A. There is a cash value. I get the names
16 of those mixed up, whichever has a cash value. Term
17 or whole, I don't --

18 Q. Oh, okay. Do you know what the cash
19 value of that is?

20 A. That needs to be clarified.

21 MR. CORY: First question is do you
22 know?

23 THE WITNESS: I know the values.

24 MR. CORY: Okay. The cash value or do
25 you need him to define cash value?

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1 THE WITNESS: No, he couldn't define it.
2 I need to explain it, and you're going to get mad.

3 MR. CORY: All right.

4 BY MR. PECK:

5 Q. That's fine. Let him get mad.

6 A. There is a cash value that has been
7 generated for about 450,000. However, we borrowed
8 all but maybe 20,000 of that. So left in there as a
9 cash value maybe 10 to 15,000, maybe. Probably less
10 than that because each year there's a huge premium,
11 and that's wiped it out too, any excess cash value.

12 Q. Is there still a death benefit?

13 A. Yes.

14 Q. Is the death benefit affected by the
15 cash value? If you take cash out, does it affect
16 the death benefit?

17 A. The amount of the death benefit, yes.

18 Q. Do you know what the death benefit is
19 now?

20 A. It's somewhere -- well, it normally is
21 somewhere around a million dollars. It fluctuates
22 with 440,000 or so outstanding, it would be five
23 hundred and plus thousand.

24 Q. And you said that's the second-to-die
25 policy. So death benefit is paid out when both of

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1 your parents have died; is that correct?

2 **A. Have passed away, yes.**

3 **Q. Regarding the Phoenix Home Life**

4 **policies, you said there was two of them, one on**

5 **your dad's life and one on your mom's life. Do**

6 **those have cash values to them?**

7 **A. The same as the Sun Life. There was a**

8 **cash value in there. There may be a small amount**

9 **left.**

10 **Q. For both of them; is that correct?**

11 **A. Yes.**

12 **Q. And do you know what the cash value is**

13 **for both of those?**

14 **A. What's left or what was before the loan?**

15 **Q. What's left.**

16 **A. I would say less than 10,000 in each one**

17 **of them. Somewhere less than 10,000.**

18 **Q. And so you took cash out of these**

19 **policies. You just now referred to it as a loan.**

20 **Is it money that has to be paid back to them?**

21 **A. Yes.**

22 MR. CORY: Hang on just a minute.

23 You're saying -- are you asking him if he took cash

24 out?

25 MR. PECK: No.

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1 MR. CORY: I'm not sure he took cash
2 out.

3 MR. PECK: No, I didn't ask who took the
4 cash out. I just wanted to know -- but --

5 BY MR. PECK:

6 Q. If the money that was taken out has to
7 be repaid?

8 A. Yes.

9 Q. Okay.

10 A. I got to qualify that. Part of it.
11 Part of it is an ownership interest in JAMD, which I
12 mentioned earlier.

13 MR. CORY: No, I think he's asking just
14 the policy. So does the loan against the policy
15 have to be repaid? Is that what you're asking?

16 MR. PECK: That's what I'm asking.

17 THE WITNESS: Oh, does the loan have to
18 be repaid back to the life insurance companies? Oh,
19 absolutely.

20 BY MR. PECK:

21 Q. Okay. How much has to be repaid to Sun
22 Life?

23 A. It goes up all the time, and somewhere
24 around 400 and -- over 400,000.

25 Q. Okay. And who's obligated to pay that

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1 back?

2 A. The Jerry and Lois Tarkanian Irrevocable
3 Trust.

4 Q. And regarding the Phoenix Home Life
5 policy, is the Jerry and Lois E. Tarkanian
6 Irrevocable Trust obligated to pay Sun Life back as
7 well?

8 A. Phoenix Home Life.

9 Q. I'm sorry. Correct, Phoenix Home Life.

10 A. Yes.

11 Q. Okay. I'm going to jump around a little
12 bit from where I intended to do this. But while
13 we're talking about the loans against these
14 policies, I was under -- or I've been informed that
15 there was money taken out of life insurance
16 policies, could be around \$670,000, and that
17 approximately 400,000 of it was used by you to pay
18 down your mortgage, and the other part was used by
19 your mom to do renovations to your house.

20 A. No, you're wrong.

21 MR. CORY: Hang on that's not a
22 question.

23 THE WITNESS: He's wrong. He's making a
24 mistake.

25 MR. CORY: He's just talking so far.

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1 BY MR. PECK:

2 Q. And my question to you would be, is what
3 I said accurate?

4 A. No.

5 Q. Okay. And can you explain why it's not
6 accurate?

7 A. Because you have misinformation.

8 Q. Okay. The money that was taken from the
9 Sun Life policy, you said it was approximately
10 \$400,000 or so; is that correct?

11 A. That is the balance now. It has gone up
12 and down over a period of eight to ten years.

13 Q. Okay. So can you tell me -- and I just
14 want to get to -- get down to this so I can
15 understand this, and then we can move on. Was there
16 a big lump sum of about \$400,000 taken out of this
17 fairly recently, though?

18 A. Yes.

19 Q. Okay, and when was that?

20 A. I'm -- no, but I'm playing with words.
21 There's like 300,000 taken out and something like
22 that. Three hundred -- three fifty in July and then
23 another fifty in August.

24 Q. Okay. And that money was used to pay
25 down your mortgage?

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1 **A. No. And you know what, I --**

2 MR. CORY: Just correct him.

3 THE WITNESS: I'm mistaken. That's not
4 accurate.

5 MR. CORY: He's going to give you a
6 chance to correct him.

7 THE WITNESS: That's not accurate what I
8 stated.

9 BY MR. PECK:

10 Q. Let me show you -- this is a --

11 MR. CORY: Hang on just a minute. Can
12 we step out for a minute?

13 MR. PECK: That's fine.

14 (At this time, a recess was
15 taken.)

16 THE WITNESS: With respect to my
17 mother's and father's renovations, there was -- I
18 don't know if it has anything to do with the life
19 insurance policies. With respect to the four
20 hundred-and-some thousand you're referring to, my
21 best recollection, which I think is pretty accurate,
22 is 110,000 was taken out of the Phoenix Home Life
23 policy and 110,000 from the other Phoenix Home Life
24 policy.

25 Anything else would have came from the

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1 Sun Life policy. And that money was used to loan to
2 JAMD. JAMD has been operating at a deficiency.
3 We've been borrowing money to use to develop that
4 property from a number of sources, including the
5 Jerry and Lois Tarkanian Irrevocable Trust.

6 That 400,000 you're referring to, JAMD
7 paid me back, I think it was three hundred to three
8 fifty in July and another fifty in August for money
9 I had loaned JAMD over the past eight to ten years.

10 BY MR. PECK:

11 Q. The loans that you made to JAMD, is
12 there documentation, promissory notes, or things
13 like that?

14 A. There was, and I couldn't find it in the
15 file, but there was.

16 Q. So it hasn't been produced in here?

17 A. No.

18 Q. Do you know how much you've loaned --
19 well, let me start from the beginning. When was
20 JAMD created, JAMD, LLC?

21 A. 2001, but, you know, I'll let you ask --

22 Q. I mean, if you need to clarify
23 something, by all means.

24 A. We started development of JAMD in 2005,
25 I believe. And that's when we borrowed money to pay

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1 for parts of the development.

2 Q. And do you know how much you've loaned
3 to JAMD over -- total over the time?

4 A. I do not because I've loaned them money,
5 I've been paid back, I've loaned them money, and
6 I've been paid back.

7 Q. Do you know how much your -- are you
8 owed money from JAMD now?

9 A. No.

10 Q. So you're saying you've been paid back
11 in full everything you've loaned them?

12 A. Yes.

13 Q. Let's talk about any trust interest that
14 you have or your own trust. I know you have a
15 revocable family trust that owns your residence; is
16 that correct?

17 A. I have a revocable family trust. I
18 don't know if it owns my residence or not.

19 Q. Okay. Do you know what that trust is
20 called?

21 A. The Danny and Amy -- no, I don't for
22 sure. I mean, I don't know if I used Danny or
23 Daniel.

24 Q. Do you only have just the one revocable
25 trust?

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1 Q. Do you know if you needed money, you're
2 the trustee, is it your decision to make a
3 distribution from that?

4 A. It's for the --

5 MR. CORY: He's the -- hang on just a
6 minute, let me clarify. Isn't he one of two
7 trustees? Isn't he the designated family trustee,
8 which he said he doesn't really know what that
9 means?

10 MR. PECK: Well, I don't know.

11 THE WITNESS: I know what the trustee
12 is.

13 MR. CORY: Okay.

14 BY MR. PECK:

15 Q. Again, my question is: As the trustee,
16 is it your discretion to make distributions under
17 that 1992 Jerry and Lois E. Tarkanian Irrevocable
18 Trust?

19 A. If it's in the best interest of the
20 beneficiaries, which it would not be because you
21 would have to borrow money from the life insurance
22 policy to make a distribution, and therefore you'd
23 be paying an interest to those policies, which are
24 normally a higher than normal interest rate that you
25 could pay.

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1 Q. Okay. I think the beginning of the
2 answer -- what was the beginning of the answer? Was
3 there a yes or a no in there, I'm not exactly sure.
4 I know you said it wouldn't be --

5 A. I can make a distribution if it was in
6 the best interest of the beneficiary. However, it
7 would not be in the best interest of the
8 beneficiaries to take money out of a life insurance
9 trust where you have to borrow from a life insurance
10 policy.

11 MR. PECK: Did you find his revocable
12 trust in there?

13 MR. CORY: I didn't.

14 MR. PECK: Okay.

15 MR. CORY: You know, it makes me want to
16 look at the disk.

17 THE WITNESS: The disk has got just the
18 bank statements. If it's not in there, I'll give it
19 to my attorney and get it over to you. I apologize,
20 I thought I had it.

21 BY MR. PECK:

22 Q. I'm assuming, and I think we've
23 established, you only have the one revocable trust
24 that you created, correct?

25 A. Yes.

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1 Q. Okay. Do you have the ownership
2 percentage for each of those? Is that something
3 that you produced in here?

4 A. I thought I had it produced in there,
5 but so far I haven't found it. I can provide that
6 with the irrevocable trust. I guess I have two
7 trusts I have to provide.

8 Q. Do you know who the manager for JAMD is?

9 A. I am.

10 Q. Are you the sole manager?

11 A. Yes.

12 Q. So I'm wondering who makes the business
13 decisions? Are you the only person involved in that
14 or is there -- do you have meetings? Tell me a
15 little bit about that.

16 A. I make the major -- I make the
17 day-to-day business decisions of JAMD, and there are
18 annual meetings or I give an update of what's
19 happening. And, you know, there's some discourse
20 back and forth.

21 Q. Any other meeting? Just annually you
22 have one meeting?

23 A. Yes.

24 Q. And are there minutes kept?

25 A. Yes.

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1 your house is?

2 A. No.

3 Q. What's the size of your house?

4 A. 3,400 square feet.

5 Q. And we touched upon this before, and I

6 just want to make sure I'm clear. This is in my

7 outline where I had this -- the paydown of your

8 mortgage by approximately \$400,000 back in July,

9 August and September.

10 And just so I'm clear, that money that

11 you pay that -- it came from initially a cash

12 advance on the life insurance policies?

13 A. No.

14 Q. Okay, why do you disagree with that?

15 A. Because it came from JAMD, LLC from

16 money it owed me that I had lent it over an extended

17 period of time.

18 Q. And JAMD --

19 A. There wasn't just one payment that --

20 that's it.

21 Q. Okay. And JAMD obtained the money from

22 the life insurance policy?

23 A. JAMD obtained money. I don't know if

24 it's four hundred or whatever. JAMD obtained part

25 of -- JAMD obtained money from a life insurance

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1 policy in that time period along with rents that
2 were coming in. And I'm not sure if anybody else
3 had lent JAMD any money at the time, such as the
4 individuals I had mentioned. So there was different
5 revenue coming into JAMD.

6 MR. CORY: I think you previously
7 testified that it was actually the trust.

8 THE WITNESS: I'm sorry, what's that?

9 MR. CORY: The trust that loaned the
10 money to JAMD.

11 THE WITNESS: The trust owned -- the
12 life insurance trust loaned money to JAMD. We also
13 had revenue coming in from JAMD. And I also -- I
14 believe we borrowed some money from some of those
15 other individuals also.

16 BY MR. PECK:

17 Q. When we had talked about the JAMD
18 business decision making, and you said that you make
19 the day-to-day decisions and you have annual
20 meetings, the decision to repay the loan from JAMD
21 to you and approximately \$400,000 at that time, was
22 that -- was there anybody else involved in that
23 decision or was it your decision or did you have a
24 meeting at that time? Can you tell me?

25 A. It was my decision, no meeting, and JAMD

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1 has repaid me back much more than 400,000 during
2 that time period.

3 Q. How much more?

4 A. I don't know.

5 Q. I think over the years at some points
6 you have provided financial statements to the FDIC.
7 Do you recall doing that?

8 A. Yes.

9 Q. I think at one time you may have
10 reported that you had loaned JAMD more than
11 \$800,000. Would that be right?

12 A. Oh, yeah, I've loaned it much more than
13 that. You're referring, I believe, to a statement
14 that they asked how much money was repaid back over
15 a period of time. I gave them a printout from my
16 account to show how much JAMD had repaid me back
17 and/or I earned in salary. And I think that amount
18 was over 800-and-some thousand. That was only after
19 -- over -- it was a three- or four-year period.

20 Q. I want to talk about any accounts you
21 might have, bank accounts and so forth. Can you
22 tell me, do you have -- do you have a checking
23 account right now?

24 A. Yes.

25 Q. And where is that at?

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CERTIFICATE OF REPORTER

STATE OF NEVADA)
 SS:
COUNTY OF CLARK)

I, Teri R. Ward, a duly commissioned Notary Public, Clark County, State of Nevada, do hereby certify:

That I reported the taking of the deposition of the witness, DANNY TARKANIAN, commencing on Wednesday, June 5, 2013, at 8:41 a.m.;

That prior to being examined, the witness was by me duly sworn to testify to the truth; that I thereafter transcribed my said shorthand notes into typewriting; and that the typewritten transcript of said deposition is a complete, true and accurate transcription of said shorthand notes; that review of the transcript was requested.

I further certify that I am not a relative, employee, or independent contractor of counsel of any of the parties; nor a relative, employee, or independent contractor of the parties involved in said action; nor do I have any other relationship with any of the parties or with counsel of any of the parties involved in the action that may reasonably cause my impartiality to be questioned.

IN WITNESS WHEREOF, I have hereunto set my hand in my office in the County of Clark, State of Nevada, this _____ day of _____, 2013.

Teri R. Ward, CCR NO. 839